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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,995	12/22/2003	James French	92536-95342	9030
23644	7590	07/22/2005	EXAMINER	
BARNES & THORNBURG P.O. BOX 2786 CHICAGO, IL 60690-2786			CROSLAND, DONNIE L	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/743,995	Applicant(s) FRENCH ET AL	
	Examiner DONNIE L. CROSLAND	Art Unit 2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION*****Drawings***

The drawings are objected to because the proper symbol or a label must be provided for the blocks shown in figure 1 in accordance with 37 CFR 1.84n,o.

Figures 4-17 contain shaded areas that would not allow for proper reproduction since the printed material within the shaded area would not be reproduced. New figures without the shade are required.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

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Claims 1-49, 54, and 55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 2, "meter or an adapter" is an alternative expression rendering the claim indefinite; lines 7 and 9, "and/or" is an alternative expression rendering the claim indefinite; lines 12 and 13, "the decoded messages" lacks basis and should read –decoded control messages-; line 14, "to/from is indefinite and should read –to and from-; line 14 "the format" should read –a format-; the "-".

In claim 5, line 2, "the voltage" has no antecedent basis.

In claims 6, 8, 15, 17, and 27, "the message characters" has no antecedent basis. Such should read –command message characters.

In claim 41, line 4, "meter or an adapter" is an alternative expression rendering the claim indefinite; line 5, "at at" is indefinite; line 6, "customer=s" is indefinite; line 6, "or" is alternative and is indefinite; line 8, "the central computer" lacks antecedent basis and should read –central control computer; line 9, "the format" should read –a format-; lines 16 and 20, "and/or" is indefinite; line 17, "to/from" is indefinite.

In claims 45 and 54, line 9, "the most significant nibble" should be changed to –a most significant nibble; line 17, "(F)truncate" runs together and should be separated; line 18 runs together is several occurrences and should be separated; line 19, "the final" should read –a final-.

Claim 47, line 1, "the supply" has no antecedent basis; the term "centre" throughout the claim should be changed to –center-; line 3, "the utility company"

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has no antecedent basis; line 7, "customer=s" is indefinite; line 9, "the function" has no antecedent basis.

In claims 48 and 49, line 1, "the Utility" has no antecedent basis.

In claim 49, "centre" in each occurrence should be changed to -center-; line 3, "or" is an alternative expression rendering the claim indefinite.

In claim 55, line 7, "means" is indefinite since it lacks a function.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 47-50 and 55 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Brown, 5761083.

Brown shows a system for controlling a supply of power to customers of a utility supply company comprising a data center 24 to generate control messages and a paging network 20, see figure 1, abstract, related figures, and columns 3-6.

With respect to claim 50, see figure 5.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, 5761083.

The limitations as recited in these claims are obvious over the message structure as shown in figures 6-14, and columns 14-16. Such would not involve patentable invention since it is clearly within the capabilities of the skilled artisan to vary the message structure as discussed in Brown.

***Allowable Subject Matter***

Claim 54 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 1-46 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bellin, Hildebrand et al, Howard, and Hansen, provide for load management systems that remotely control an electricity supply for connecting and disconnecting power between the load and supply.

The references also provide for a paging service and customer-premises switching arrangement coupled to a paging receiver.

All the references provide for command messages and control instructions.

Also, the monitoring of load current is suggested in the references.

Ying provides for the transmission of control signals with a numerous protocols, col. 7. Such protocols are within the broad meaning of paging.

Bartone et al provides for wireless remote control of electricity supply as well as load monitoring but fails to state "paging".


Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNIE L. CROSLAND whose telephone

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number is 571-272-2980. The examiner can normally be reached on Mon-Fri, 9:30a-6:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JEFFERY HOFSSASS can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
DONNIE L. CROSLAND  
Primary Examiner  
Art Unit 2636

Dlc  
7-21-05